



Agent and Broker Participation in the Federally-facilitated Marketplace (FFM): An Overview for States

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*Centers for Medicare & Medicaid
Services (CMS)
Center for Consumer Information
& Insurance Oversight (CCIIO)*



Agent and Broker Participation in the Federally-facilitated Marketplace (FFM): An Overview for States



Introduction

Webinar Agenda

- Objectives
- Background
- Agent and Broker Registration in the FFM
- Responsibilities for Oversight of FFM Agents and Brokers
- Question and Answer (Q&A) Session
- Resources

Webinar Objectives

- Describe the role of agents and brokers, including web-brokers, in the Health Insurance Marketplaces
- Review the registration requirements for agents and brokers who wish to participate in the Federally-facilitated Marketplace (FFM) during the 2015 plan year
- Distinguish between the initial and annual registration requirements for new and renewing agents and brokers
- Discuss the states' role in overseeing agent and broker compliance with the respective states' existing law and regulation
- Identify relevant CMS resources and guidance

Agent and Broker Participation in the Federally-facilitated Marketplace (FFM): An Overview for States



Background

Role of Agents and Brokers in the Health Insurance Marketplaces

- To the extent permitted by a state, licensed agents and brokers, including web-brokers, may assist individual and small group market consumers through the Marketplace with:
 - Completing the QHP eligibility application, including the application for insurance affordability programs (e.g., cost-sharing reductions and advance payments of the premium tax credit) (individual market only); and
 - Comparing, selecting, and enrolling in QHPs through the Health Insurance Marketplaces.
- In the course of assisting individual market consumers through Marketplace, agents and brokers should appropriately directing consumers who are eligible for government-sponsored coverage.

State Role Regarding Agents and Brokers in the FFM

- States maintain their primary authority for oversight of agents and brokers participating in the FFM.
- States continue to enforce their existing state laws and regulations around privacy and security, conflict of interest, licensing and continuing education, marketing, issuer appointments, complaints handling, and enforcement actions.
- States may receive questions from various entities (consumers, issuers, or agents and brokers themselves) regarding the requirements and activities of agents, brokers, and web-brokers in the FFM.

Overview of Agent, Broker, and Web-Broker Requirements in the FFM

Applicable Regulation*	Citation
Internet website requirements	45 CFR §155.220(c)(3-4)
Agreement between the agent or broker and the FFM	45 CFR §155.220(d)
Agent/broker compliance with applicable state law	45 CFR §155.220(e)
Termination of an agent's or broker's Agreement with the FFM for cause	45 CFR §155.220(g)(1)
Privacy and security standards and Agreement	45 CFR §§155.260(b), 155.220(d)(3)
Imposition of a civil money penalty	45 CFR §§155.260(g), 155.280(b), 155.285

*Not an exhaustive list

Annual Agreements for Agents and Brokers in the FFM

- Every agent, broker, and web-broker is required to execute an Agreement with CMS as part of the initial and annual registration with the FFM.
 - **FFM for the Individual Market Agreements:** Agent Broker General Agreement for the FFM Individual Market; Privacy and Security Agreement for the Individual Market
 - **FF-SHOP Agreement:** Privacy and Security Agreement for the FF-SHOP
- By signing the applicable Agreements, agents and brokers attest that they will:
 - Comply with Marketplace privacy and security requirements, such as standards for use and disclosure of Personally Identifiable Information (PII);
 - Comply with all applicable state and federal laws and regulations;
 - Maintain valid licensure in all states where they wish to enroll qualified individuals and employers/employees into QHPs through the FFM; and
 - Complete the full FFM registration process in advance of assisting consumers, including taking all applicable training.

Agent and Broker Participation in the Federally-facilitated Marketplace (FFM): An Overview for States

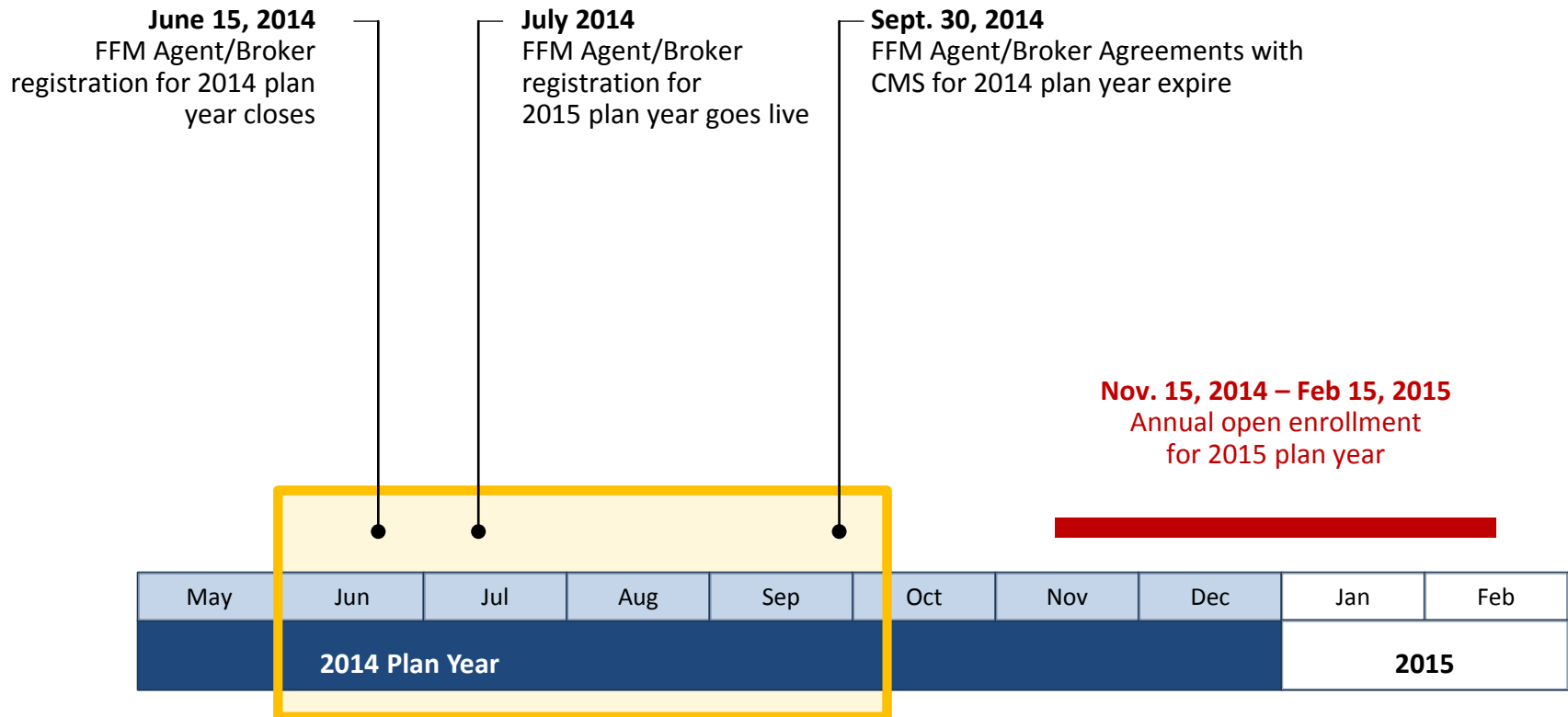
Agent and Broker Registration in the FFM



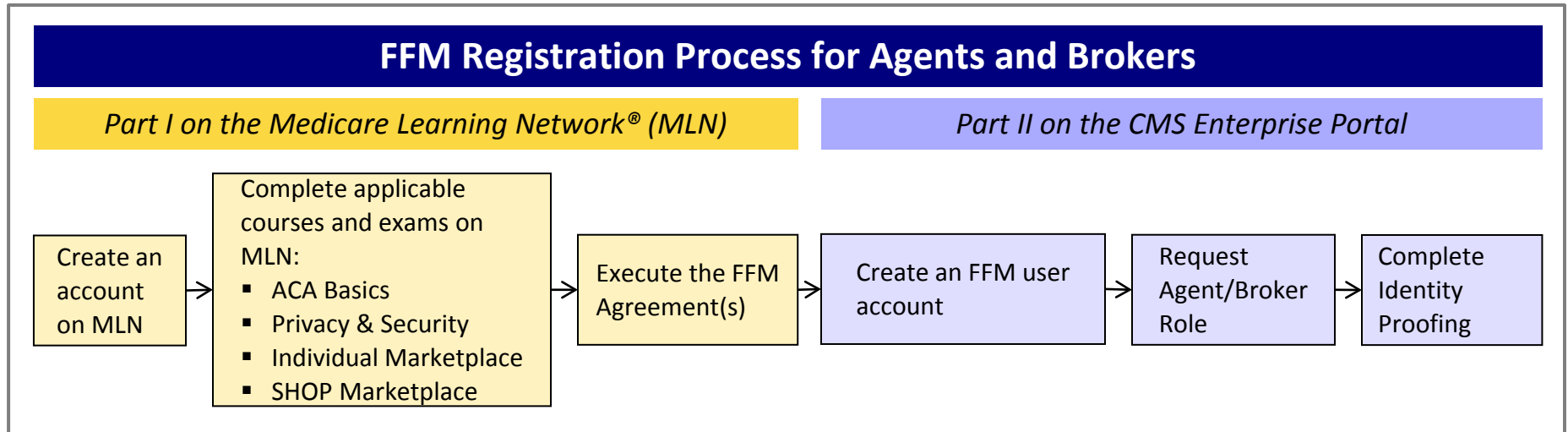
Agent and Broker Participation in the FFM for the 2015 Plan Year

- All agents and brokers must complete the FFM registration process in order to assist consumers with enrollment through the FFM during the 2015 plan year, regardless of whether they were registered for the 2014 plan year.
 - **New agents and brokers** (i.e., those who did not register to participate in the FFM for the 2014 plan year) must complete **initial registration** requirements.
 - **Renewing agents and brokers** (i.e., those who registered with the FFM to participate in the 2014 plan year) must complete **annual registration** requirements.

Agent and Broker Registration for the 2015 Plan Year: Key Dates



Agent and Broker FFM Registration Process Overview



Agent and broker registration requirements differ depending on:

- (1) The marketplace in which the agent or broker wishes to participate (individual, FF-SHOP, both); and
- (2) Whether the agent or broker is new to the FFM or is renewing his or her FFM registration.

Registration Requirements for Agents and Brokers Who are NEW to the FFM

<i>Agents and brokers participating in the...</i>	Initial FFM Registration Activities			
	Part I			Part II
	Create an Account on MLN	Complete the FFM Training	Execute FFM Agreement(s)	Create an FFM User Account and Complete Identity Proofing on the CMS Enterprise Portal
• FFM for the individual market	Required	Required: Basics, P&S, IM	Required: GA, P&S IM	Required
• FF-SHOP	Required	Recommended: Basics, P&S, SHOP	Required: P&S SHOP	Required (<i>Note: Part II is a new requirement for agents and brokers wishing to participate in the FF-SHOP for the 2015 plan year.</i>)
• FFM for the individual market and FF-SHOP	Required	Required: Basics, P&S, IM Recommended: SHOP	Required: GA, P&S IM, P&S SHOP	Required

TRAINING & AGREEMENTS:

Basics	Affordable Care Act and Marketplace Basics Course & Exam
P&S	Privacy and Security Standards Course & Exam (NEW for plan year 2015)
IM	Individual Marketplace Course & Exam
SHOP	SHOP Marketplace Course & Exam
GA	Agent Broker General Agreement for the FFM Individual Market
P&S SHOP	Agreement Between Agent or Broker and CMS for the FF-SHOP
P&S IM	Agreement Between Agent or Broker and CMS for the FFM Individual Market

Registration Requirements for Agents and Brokers Who are RENEWING with the FFM

<i>Agents and brokers renewing their participation in the...</i>	Annual FFM Registration Activities			
	Part I			Part II
	Login to MLN using existing MLN User ID and Password	Complete the FFM Training	Execute FFM Agreement(s)	Create an FFM User Account and Complete Identity Proofing on the CMS Enterprise Portal
• FFM for the individual market	Required	Required: Basics, P&S, IM	Required: GA, P&S IM	No activity required
• FF-SHOP	Required	Recommended: Basics, P&S, SHOP	Required: P&S SHOP	Required (<i>Note: Agents and brokers who did not complete this requirement as part of the registration for the 2014 plan year must do so as part of registration for the 2015 plan year.</i>)
• FFM for the individual market and FF-SHOP	Required	Required: Basics, P&S, IM Recommended: SHOP	Required: GA, P&S IM, P&S SHOP	No activity required

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New for 2015: Highlights of Agent and Broker Registration in the FFM

- A new Privacy and Security Standards course has been added to the agent and broker training.
 - Agents and brokers participating in the FFM for the individual market must also complete this course and the associated exam.
 - Agents and brokers participating in the FF-SHOP are highly encouraged to also complete this course and the associated exam.
- Agents and brokers who completed Part II of registration for the 2014 plan year will only need to complete Part I of registration to participate in the FFM during the 2015 plan year.
- Agents and brokers who participated only in the FF-SHOP during the 2014 plan year must complete both Part I and Part II of registration for the 2015 plan year.

Agent and Broker Registration: Tips for Completing Part I

- Renewing agents and brokers should use their existing MLN user ID for registration.
- Agents and brokers must enter a correct National Producer Number (NPN) on their MLN profile before starting training and should verify that it is correct before completing training.
- Agents and brokers should ensure they have selected their desired role (i.e., market type) in MLN, as this determines the curriculum they are auto-assigned.
- Agents and brokers should print their curriculum certificates (not course certificates), as they must provide them to issuers with whom they are affiliated for oversight purposes.

Agent/Broker NPNs can be found at:
<https://pdb.nipr.com/html/PacNpnSearch.html>

Agent and Broker Registration: Tips for Completing Part II

- Only agents and brokers who did not complete Part II of registration for the 2014 plan year (new or renewing) must complete Part II for the 2015 plan year.
- FFM user IDs are not assigned by CMS; agents and brokers create their FFM user ID on the CMS Enterprise Portal.
- An agent's or broker's FFM user ID does not have to be the same as their MLN user ID, but CMS encourages agents and brokers to use the same ID for both.
- The FFM user ID is not fully activated for the agent/broker role until Parts I and II are both complete.

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*Responsibilities
for Oversight of
FFM Agents and
Brokers*

State Oversight Responsibilities

States have primary authority for overseeing and setting standards for agents and brokers, including those participating in the FFM, pursuant to the states' existing laws and regulations in areas such as:

- Confidentiality requirements
- Conflict of interest requirements
- Licensing and continuing education requirements
- Marketing requirements
- Appointments with issuers
- Complaint investigations and tracking, for complaints reported to the state
- Enforcement actions

QHP Issuer Oversight Responsibilities

- Per 45 CFR §156.340, a QHP issuer maintains responsibility for compliance of its delegated or downstream entities (e.g., affiliated agents and brokers) with all applicable FFM standards.
- For their affiliated agents and brokers, issuers must:
 - Confirm successful completion of FFM registration requirements
 - Verify licensure status in every applicable state
 - Ensure that all activities conducted on their behalf by agents, brokers, and web-brokers comply with applicable federal and state standards, such as those for privacy and security

CMS Oversight Responsibilities

- CMS oversees agent and broker compliance with the FFM-specific standards and the terms and conditions of the applicable FFM Agreement(s).
- CMS intends to work with states wherever possible to coordinate oversight activities related to agents and brokers.
- CMS may investigate agents and brokers in response to a complaint received by the FFM.
- As part of its oversight of QHP issuers participating in the FFM, CMS will monitor to confirm that QHP issuers are meeting their responsibilities under federal law for oversight of affiliated agents, brokers, and web-brokers.

CMS Actions in Response to Confirmed Noncompliance

- The Department of Health & Human Services (HHS) may impose a civil money penalty against any person who knowingly and willfully uses or discloses PII in violation of section 1411(g) of the Affordable Care Act. See 45 CFR 155.280(a).
- HHS may terminate an agent's, broker's, or web-broker's Agreement with the FFM for cause if it determines that a specific finding of noncompliance or a pattern of noncompliance is sufficiently severe. See 45 CFR 155.220(g).
 - HHS will inform the applicable state(s) of any FFM terminations.
 - Termination would effectively bar the agent's, broker's, or web-broker's access to assist consumers with FFM enrollments.
 - Termination can be temporary or permanent.

Sources of Agent and Broker Guidance

QHP issuers	CMS
<ul style="list-style-type: none">• Which NPN to use for enrollment• Compensation• Appointments	<ul style="list-style-type: none">• Understanding and completing the registration requirements for agents and brokers who wish to participate in the FFM• Compliance with the FFM privacy and security standards and implementation specifications• Compliance with federal laws, rules, standards, and policies

Guidance from States

CMS expects that states will provide guidance to agents and brokers on the following topics:

- Licensing
- State requirements for continuing education
- State rules for confidentiality, conflict of interest, marketing, or issuer appointments
- State-level complaints and enforcement activities

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Question and Answer Session

Questions?



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Resources

Resources

- **CCIIO Resources for Agents and Brokers in the Health Insurance Marketplaces:** <http://www.cms.gov/ccio/programs-and-initiatives/health-insurance-marketplaces/a-b-resources.html>
- **Frequently Asked Questions Regarding Agents and Brokers:** <http://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/Agent-Broker-FAQs-5-30-14.pdf>
- **Registering to Participate in the Federally-facilitated Marketplace for the 2015 Plan Year: What Agents and Brokers Need to Know:** http://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/AB_Training-and-Registration-Overview_052914_Opt1_v11.pdf
- **Operational Tips for Completing Agent and Broker Registration for the Federally-facilitated Marketplace:** http://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/Operational_Tips_5_30_2014_508.pdf
- **Quick Reference Guide: Agent and Broker Training and Registration Process for the FFM:** http://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/agent-broker-reg-quick-reference_revised_5_29_14_508.pdf
- **Federally-facilitated Marketplace Agent and Broker Registration For the 2015 Plan Year: Frequently Asked Questions:** http://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/Agent_Broker_Registration_QA_May_2014_508.pdf